

REMARKS

By this amendment, claims 1 and 8 have been amended. Claims 11 and 12 were previously canceled. Claims 1-10 and 13 remain in the application. Support for the amendments can be found the specification and drawings. No new matter has been added. This application has been carefully considered in connection with the Examiner's Action. Reconsideration, and allowance of the application, as amended, is requested.

Rejection under 35 U.S.C. §102

Claim 1 recites a method for classifying at least one audio signal into at least one audio class, the method comprising the steps of:

- analyzing said audio signal to extract at least one predetermined audio feature;

- performing a frequency analysis on a set of values of said extracted predetermined audio feature at different time instances resulting in a power spectrum of said extracted predetermined audio feature;

- deriving at least one further audio feature representing a temporal behavior of said extracted predetermined audio feature by parameterizing said power spectrum, wherein parameterizing said power spectrum comprises summarizing a frequency axis of the power spectrum by summing energy within at least one predetermined frequency band and dividing the summed energy within the at least one predetermined frequency band by an average of subsequent values of said extracted predetermined audio feature to yield a relative modulation depth;
- and

- classifying said audio signal based on said further audio feature.

Support for the amendments to claim 1 (as well as for claim 4, 5 and 6) can be found in the specification at least on page 5, lines 18-22 and 30-32; and Figures 2 and 3.

Claims 1-3, 7-10, and 13 were rejected under 35 U.S.C. §102(e) as being anticipated by **Rui** et al. (US 7,028,325, hereinafter referred to as "**Rui**"). (Paragraph 5. on page 2 of the 1/29/09 Office action states "Claim 1-4, 7-10, and 13 are rejected ..."; however, the undersigned believes the Examiner meant "Claim 1-3, 7-10, and 13 are rejected ..." in view of (i) no mention of claim 4 in Paragraph 6. on pages 2-4 and (ii) paragraph 8 on page 4 of the 1/29/09 Office Action.)

Applicant respectfully traverses this rejection for at least the following reasons.

The PTO provides in MPEP § 2131 that
"[t]o anticipate a claim, the reference must teach every element of the claim...."

Therefore, with respect to claims 1 and 8, to sustain this rejection the **Rui** reference must contain all of the above claimed elements of the respective claims. However, contrary to the examiner's position that all elements are disclosed in the **Rui** reference, the latter reference does not disclose "... *deriving at least one further audio feature ... by parameterizing said power spectrum, ... parameterizing said power spectrum comprises summarizing a frequency axis of the power spectrum by summing energy within ... predetermined frequency band and dividing the summed energy within the ... predetermined frequency band by an average of subsequent values of said extracted predetermined audio feature to yield a relative modulation depth ...*" [*emphasis added*] as is claimed in claims 1 and 8. Therefore, the rejection is not supported by the **Rui** reference and should be withdrawn.

Accordingly, claim 1 and 8 are allowable and an early formal notice thereof is requested. Claims 2-3, 7 and 13 depend from and further limit independent claim 1 and therefore are allowable as well. Claims 9 and 10 depend from and further limit independent claim 8 and therefore are allowable as well. The 35 U.S.C. §102(e) rejection thereof has now been overcome.

Rejection under 35 U.S.C. §103

Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over **Rui et al. (7,028,325)** in view of **Blum et al. (5,918,223)**. Applicant respectfully traverses this rejection for at least the following reasons. Claim 4 depends from and further limits allowable independent claim 1 and therefore is allowable as well. The 35 U.S.C. §103(a) rejection thereof has now been overcome.

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over **Rui et al. (7,028,325)** in view of **O'Hagen et al. (5,581,658)**. Applicant respectfully traverses this rejection for at least the following reasons. Claim 5 depends from and further limits allowable independent claim 1 and therefore is allowable as well. The 35 U.S.C. §103(a) rejection thereof has now been overcome.

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over **Rui et al. (7,028,325)** in view of **O'Hagen et al. (5,581,658)**, in further view of **Scheirer et al. (6,570,991)**. Applicant respectfully traverses this rejection for at least the following reasons. Claim 6 depends from and further limits claim 5, which depends from allowable independent claim 1 and therefore is allowable as well. The 35 U.S.C. §103(a) rejection thereof has now been overcome.

Conclusion

Except as indicated herein, the claims were not amended in order to address issues of patentability and Applicants respectfully reserve all rights they may have under the Doctrine of Equivalents. Applicants furthermore reserve their right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or a continuation application.

It is clear from all of the foregoing that independent claims 1 and 8 are in condition for allowance. Claims 2-7 and 13 depend from and further limit independent claim 1 and therefore are allowable as well. Claims 9 and 10 depend from and further limit independent claim 8 and therefore are allowable as well.

The amendments herein are fully supported by the original specification and drawings; therefore, no new matter is introduced. An early formal notice of allowance of claims 1-10 and 13 is requested.

Respectfully submitted,

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